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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,302	10/22/2003	Douglas M. Dillon	PD-N94026K	2255

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THE DIRECTV GROUP INC
PATENT DOCKET ADMINISTRATION RE/R11/A109
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EXAMINER

AVELLINO, JOSEPH E

ART UNIT PAPER NUMBER

2143

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,302

Applicant(s)

DILLON, DOUGLAS M.

Examiner

Joseph E. Avellino

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-24,29-32 and 34-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-24,29-32 and 34-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

AD

DETAILED ACTION

1. Claims 20-24, 29-32, and 34-35 are presented for examination; claims 20, 29, 42, and 44 independent. The Office acknowledges the addition of claims 34-45.

Claim Rejections - 35 USC § 101

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 32 42 and 43 are rejected under 35 USC 101 as not being drawn to statutory subject matter.
4. Claim 32 recites a personal computing device which includes merely logic (i.e. a TCP/IP stack and a driver which is merely software). These features are not tangibly embodied. Correction or cancellation is required.
5. Claim 42, and 43 uses "means-plus function" language, and, as stated in 35 USC 112, sixth paragraph, structures from the specification are read. However after a thorough examination of the disclosure, the "means" claimed is directed solely to driver software p. 8, line 10, p. 10, lines 17-25. By this rationale, the claim does not recite any tangible computer medium which carries out the invention. Correction or cancellation is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 20-24, 34-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification recites that there is a processor which executes instructions stored in a memory (p. 7, lines 10-15), however the specification does not disclose the software claimed is stored in the memory, nor executed by the processor. If this appears to be an oversight by the Office, Applicant is invited to point out specifically where it can be found in the specification where these features can be found.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-24, 29-32, and 34-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ioannidis et al. (*IP-based Protocols for Mobile Internetworking*, ACM SIGCOMM Computer Communication Review, vol. 21, issue 4, Sep. 1991) (hereinafter Ioannidis) in view of Attanasio et al. (USPN 5,371,852) (hereinafter Attanasio).

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9. Referring to claim 20, Ioannidis discloses a driver (i.e. software) embodied in a computing-device-readable medium for use in a computer device memory having a TCP/IP stack, said driver being configured to send an IP packet from the TCP/IP stack through an IP tunnel across a network (p. 240, col. 1),

wherein the IP packet is from the TCP/IP stack, which IP packet comprises an IP header, is placed within an Ethernet packet before being received by said driver (it is inherent that the packet is placed within the Ethernet packet since this denotes the physical layer and cannot be transmitted through the network without it), wherein the Ethernet packet comprises an Ethernet header and an Ethernet checksum (an inherent feature of the Ethernet protocol) (p. 240, col. 1),

wherein said driver adds another IP header so as to result in a packet that comprises both the IP header and the other IP header (p. 240, col. 1-2).

Ioannidis does not specifically disclose removing the Ethernet header and Ethernet checksum from the Ethernet packet. In analogous art, Attanasio discloses another driver for use in a computing device to send an IP packet through an IP tunnel across a network which discloses the driver removes the Ethernet header and Ethernet checksum from the Ethernet packet (col. 11, lines 55-60). It would have been obvious to one of ordinary skill in the art to combine the teaching of Ioannidis with Attanasio since Ioannidis discloses the use of IP packets, but does not specifically discuss as to how they originate or how they are formed. This would lead one of ordinary skill in the art to search for art as to how these IP packets are formed, eventually finding the

system described in Attanasio and its novel method describing how frame headers are stripped to be processed (col. 11, lines 55-60).

10. Referring to claim 21, Ioannidis discloses the network is the Internet (i.e. intercampus communications, as is a network of networks as Applicant states on p. 7, lines 20-21) (Figure 1, p. 238, col. 1).

11. Referring to claim 22, Ioannidis discloses an apparatus on the network receives the IP packet through the IP tunnel (Figure 1 p. 237; p. 240, col. 2).

12. Referring to claim 23, Ioannidis discloses the apparatus on the network sends the received IP packet towards its destination via a network (p. 240, col. 2).

13. Referring to claim 24, Ioannidis discloses the invention substantively as described above. Ioannidis does not specifically state an internet browser running on the computing device accesses a server through the TCP/IP stack of the computing device which sends a request to the server by way of said driver and the apparatus on the network. In analogous art, Attanasio discloses an internet browser (i.e. software running on a node able to transmit a request, such as rlogin or NFS) running on the computing device accesses a server through the TCP/IP stack of the computing device which sends a request to the server by way of said driver and the apparatus on the network (col. 13, lines 52-65). It would have been obvious to one of ordinary skill in the

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art to combine the teaching of Ioannidis with Attanasio since Ioannidis discloses the use of IP packets, but does not specifically discuss as to how they originate or how they are formed. This would lead one of ordinary skill in the art to search for art as to how these IP packets are formed, eventually finding the system described in Attanasio and its novel method describing how frame headers are stripped to be processed (col. 11. lines 55-60).

14. Claims 29-32, and 34-45 are rejected for similar reasons as stated above.

Response to Amendment

15. Applicant's arguments with respect to claims 20-24, 29-32, and 34-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

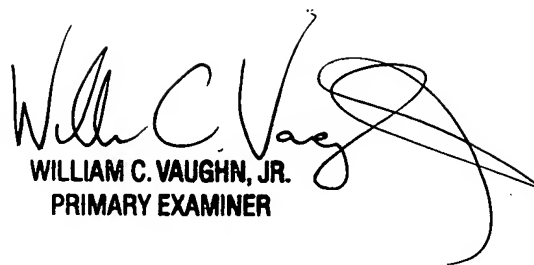
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JEA.
July 15, 2005



WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER